

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

RANDY LEWIS,)	CASE NO. 5:06 CV 1451
)	
Petitioner,)	JUDGE ANN ALDRICH
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
JOHN D. FERRERO, et al.,)	<u>AND ORDER</u>
)	
Respondents.)	

On June 13, 2006, petitioner pro se Randy Lewis filed the above-captioned petition for writ of habeas corpus under 28 U.S.C. § 2254. Lewis is incarcerated at the Mansfield Correctional Institution, having recently been convicted of robbery in the Stark County Court of Common Pleas. For the reasons stated below, the petition is denied and this action is dismissed.

A federal court may entertain a habeas petition filed by a person in state custody only on the ground that he is in custody in violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2254(a). In addition, petitioner must have exhausted all available state remedies. 28 U.S.C. § 2254(b).

As grounds for the petition, Lewis asserts that the indictment was not valid, there was prosecutorial misconduct, and his counsel was ineffective. He further claims he is actually

innocent. Without regard to the potential merits of these grounds, there is no suggestion on the face of the petition that they have yet to be raised and exhausted in the Ohio courts. The petition is thus premature.

Accordingly, this action is dismissed without prejudice pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis on which to issue a certificate of appealability. Fed.R.App.P. 22(b); 28 U.S.C. § 2253.

IT IS SO ORDERED.

s/Ann Aldrich
ANN ALDRICH
UNITED STATES DISTRICT JUDGE

Dated: 8-16-06